**UNITED STATES BANKRUPTCY COURT**
**MIDDLE DISTRICT OF GEORGIA**

IN RE: Bankruptcy Case No. 13-52024-JPS

Dana R. Miller

DEBTOR(S) Adv. Proceeding No. 17-5025-JPS

Dana R. Miller

**ALL DOCUMENTS REGARDING THIS MATTER MUST BE IDENTIFIED BY BOTH ADVERSARY AND BANKRUPTCY CASE NUMBERS**

PLAINTIFF

Freedom Mortgage Corporation

DEFENDANT

## CERTIFICATE OF SERVICE OF SUMMONS IN A BANKRUPTCY CASE

I, Calvin L. Jackson, certify that I am , and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made. I further certify that the service of this summons and a copy of the complaint was made on [date] April 25, 2017 by:

- [x] Mail Service: Regular, first class U.S. Mail, postage fully pre-paid, addressed to:
  See attached "Distribution List"
- [ ] Personal Service: By leaving the process with defendant or with an officer or agent of defendant at:
- [ ] Residence Service: By leaving the process with the following adult at:
- [ ] Publication: The defendant was served as follows: [Describe briefly]
- [ ] State Law: The defendant was served pursuant to the laws of the State of _____ as follows: [Describe briefly]

**Under penalty of perjury, I declare that the foregoing is true and correct.**

4-25-17
Date

[signature]
Signature

Print name, business address, city, state and zip code:

Calvin L. Jackson
P.O. Box 7221
Warner Robins, Georgia 31095
(478)923-9611

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

| | | |
|---|---|---|
| In the matter of: | : | |
| | : | |
| DANA R. MILLER, | : | Case Number 13-52024-JPS |
| | : | |
| Debtor, | : | |
| | : | Adversary Number: |
| | : | |
| DANA R. MILLER, | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| vs. | : | Chapter 13 |
| | : | |
| FREEDOM MORTGAGE | : | |
| CORPORATION, | : | |
| | : | |
| Defendant. | : | |
| | : | |

DISTRIBUTION LIST

Service of Complaint and Summons to be made upon the following entities pursuant to the attached Certificate of Service:

CT Corporation System
R/A for Freedom Mortgage Corporation
1201 Peachtree Street, N.E.
Atlanta, Georgia 30361

Camille Hope
Chapter 13 Trustee
P.O. Box 954
Macon, Georgia 31202

Office of the U.S. Trustee
440 MLK Jr. Blvd, Ste. 302
Macon, Georgia 31201

# United States Bankruptcy Court

Middle District of Georgia

| | | |
|---|---|---|
| In re: DANA R. MILLER<br>Debtor | : | Case No. 13-52024-JPS |
| DANA R. MILLER<br>Plaintiff | : | Chapter: 13 |
| v. | : | |
| FREEDOM MORTGAGE CORPORATION<br>Defendant | : | Adv. Proc. No. 17-5025 |

## SUMMONS AND NOTICE OF PRETRIAL CONFERENCE IN AN ADVERSARY PROCEEDING

To: Freedom Mortgage Corporation,

YOU ARE SUMMONED and required to file a motion or answer to the complaint which is attached to this summons with the Clerk of the Bankruptcy Court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall file a motion or answer to the complaint within 35 days.

| Address of Clerk: |
|---|
| **U.S. BANKRUPTCY COURT, 433 CHERRY ST., P. O. BOX 1957, MACON, GA 31202** |

At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

| Name and Address of Plaintiff's Attorney |
|---|
| Calvin L. Jackson<br>P.O. Box 7221<br>Warner Robins, Georgia 31095 |

If you make a motion, your time to answer is governed by Fed. R. Bankr. P. 7012.

YOU ARE NOTIFIED that a pretrial conference of the proceeding commenced by the filing of the complaint will be held at the following time and place.

| Address | Room |
|---|---|
| U.S. Bankruptcy Court<br>433 Cherry Street<br>Macon, Georgia 31201 | Courtroom A<br>Date and Time<br>June 19, 2017 at 2:30 p.m. |

**IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

United States Bankruptcy Court ★ Middle District of Georgia ★

Issued: 04/25/2017

**s/ Kyle George**

*Kyle George, Clerk*
*U.S. Bankruptcy Court*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

| | | |
|---|---|---|
| In the matter of: | : | |
| | : | |
| DANA R. MILLER, | : | Case Number 13-52024-JPS |
| | : | |
| Debtor, | : | |
| | : | Adversary Number: |
| | : | |
| DANA R. MILLER, | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| vs. | : | Chapter 13 |
| | : | |
| FREEDOM MORTGAGE | : | |
| CORPORATION, | : | |
| | : | |
| Defendant. | : | |
| | : | |

**COMPLAINT FOR TURNOVER**

COMES NOW DANA R. MILLER, Plaintiff in the above-styled Adversary Proceeding, and files this her Complaint For Turnover, respectfully showing the following:

1.

This is an Adversary Proceeding brought pursuant to 11 U.S.C. Section 506 and Rule 7001 of the Federal Rules of Bankruptcy Procedure. The Court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 157(b).

2.

This Complaint arises out of the Chapter 13 bankruptcy proceeding of Dana R. Miller, Case Number 13-52024-JPS, Middle District of Georgia, Macon Division.

Pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure Plaintiff states that this is a core proceeding.

3.

Defendant FREEDOM MORTGAGE CORPORATION is a corporation registered to conduct business within the State of Georgia. Defendant is subject to the jurisdiction of this Court. Venue is proper in this Court. Service will be made upon Defendant pursuant to Rule 7004 of the Federal Rules of Bankruptcy Procedure by Regular First Class Mail to Defendant's registered agent for service of process, to wit: CT Corporation System, 1201 Peachtree Street, N.E., Atlanta, Georgia 30361.

4.

Defendant holds a first priority mortgage against the debtor's residence. The debtor's Chapter 13 Plan provides that payments to Defendant shall be made outside of the Plan. The Plaintiff has made payments to Defendant outside of the Plan during the chapter 13 bankruptcy case.

5.

Upon information and belief, Plaintiff asserts that post-petition fees and costs have been charged to her account with Defendant, that said fees and costs were paid out of funds paid post-petition by Plaintiff to Defendant, and that the application of said post-petition funds to said fees and costs were improper. It is estimated that said misapplication is between $800.00 and $900.00, but said amount could be higher.

6.

Said misapplication of funds amounts to an overpayment by Plaintiff to Defendant on the underlying obligation. Further, Plaintiff shows that Defendant was improperly adding fees and costs onto the obligation without obtaining authority from the Court to do so. As such Plaintiff demands and immediate accounting for all funds received and applied since the inception of Plaintiff's chapter 13 case, and Plaintiff demands turnover of all funds improperly applied. Plaintiff seeks a turnover of said funds pursuant to 11 U.S.C. Section 542.

WHEREFORE, Plaintiff prays for the following:

(a) That process issue as provided by law;

(b) That she have judgment entered in her favor;

(c) That the Court enter an order requiring turnover of all funds misapplied by Defendant;

(d) That she be awarded costs and attorney fees incurred in prosecuting any contested matters in this action; and

(e) That she have any further and additional relief deemed appropriate by the Court.

/s/ Calvin L. Jackson
Calvin L. Jackson
GA. State Bar Number 386072
Attorney for Plaintiff
P.O. Box 7221
Warner Robins, Georgia 31095
(478) 923-9611

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

| | | |
|---|---|---|
| In the matter of: | : | |
| DANA R. MILLER, | : | Case Number 13-52024-JPS |
| Debtor, | : | |
| | : | Adversary Number: |
| DANA R. MILLER, | : | |
| Plaintiff, | : | |
| vs. | : | Chapter 13 |
| FREEDOM MORTGAGE CORPORATION, | : | |
| Defendant. | : | |

**AMENDMENT TO COMPLAINT FOR TURNOVER**

COMES NOW DANA R. MILLER, Plaintiff in the above-styled Adversary Proceeding, and files this her Amendment to Complaint For Turnover, respectfully showing the following:

Plaintiff amends her Complaint for Turnover to add the following paragraph:

7.

Pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure, Plaintiff states that she consents to entry of final orders and judgment by the Bankruptcy Court.

WHEREFORE, Plaintiff prays that her Complaint for Turnover be so amended.

/s/ Calvin L. Jackson

Calvin L. Jackson
GA. State Bar Number 386072
Attorney for Plaintiff
P.O. Box 7221
Warner Robins, Georgia 31095
(478) 923-9611